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In re Application of	:	
LEE, et al.	:	
U.S. Application No.: 10/070,119	:	COMMUNICATION AND
PCT No.: PCT/US00/23805	:	
Int. Filing Date: 30 August 2000	:	DECISION ON REQUEST
Priority Date: 30 August 1999	:	
Atty Docket No.: WSR-24-PCT-US	:	UNDER 37 CFR 1.42
For: NANOCHAIN OF BUNDLED CARBON	:	
MOLECULES USEFUL FOR	:	
HYDROGEN STORAGE	:	

This Communication is in response to applicant's "Request For Correction of Filing Receipt" filed 26 August 2002 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 30 August 2000, applicant filed international application PCT/US00/23805, which claimed priority of an earlier application filed 30 August 1999. A Demand for international preliminary examination electing the United States was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2002.

On 28 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: payment of the U.S. Basic National Fee and a combined declaration and power of attorney.

On 25 July 2002, applicant was mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903).

On 26 August 2002, applicant filed the present request for a corrected filing receipt as the filing receipt incorrectly identified Young Hi Lee as the first inventor when in fact she is the sole heir to deceased inventor, Myung W. LEE.

### **DISCUSSION**

An examination of the combined declaration and power of attorney filed 28 February 2002

finds that the Form PCT/DO/EO/903 was mailed in error. The paper should have been treated as a request for status under 37 CFR 1.42.

Pursuant to 37 CFR 1.42, first sentence:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.”

The declaration filed 28 February 2002 was executed by Young Hi Lee as sole heir of the deceased inventor, Myung W. LEE. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of Myung W. LEE or the sole heir. 37 CFR 1.497(b) requires that this information be provided for both the deceased inventor, Myung W. LEE and the surviving heir, Young Hi Lee. In addition, the submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

### **CONCLUSION**

The NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) mailed 25 July 2002 is hereby **VACATED**.

Applicant's submission under 37 CFR 1.42 is **REFUSED, without prejudice**.


Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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